

Message Text

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ACTION IO-13

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03
NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 AF-08
ARA-06 EA-07 EUR-12 NEA-10 ACDA-07 OMB-01 EB-08 /118 W
-----020902 103640 /14

R 020203Z MAR 77

FM USMISSION USUN NY

TO SECSTATE WASHDC 2579

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E.O. 11652: N/A

TAGS: PFOR, US, UN, OCON

SUBJ: UN CHARTER REVIEW

REF: USUN 580

1. UN CHARTER REVIEW WORKING GROUP MET MORNING OF MARCH 1
AND COVERED PARAS 93-102 OF SECT STUDY CONCERNING ICJ AND
ECOSOC. MEXICO LED OFF BY CHARGING THAT ICJ HAS SHOWN INSENSI-
TIVITY TO OTHER UN ORGANIZATIONS AND UN GUIDANCE AND THAT NEW
STATES DO NOT WANT TO ACCEPT JUDICIAL APPLICATION OF OLD LAW.
US DISAGREED STRONGLY WITH NOTION THAT DICHOTOMY EXISTS BETWEEN
ROLE OF ICJ AS LEGAL INSTITUTION AND ROLE OF ICJ
AS PART OF UN, AND ATTACKED COMMENTS RE EXISTING LAW
AS IGNORING, INTER ALIA, CODIFICATION BY UN IN LAST 15 YEARS
AS WELL AS JURISPRUDENCE OF ICJ.

2. USSR SAID THAT REWORDING OF CHARTER WILL NOT ENHANCE EF-
FICIENCY OF ICJ. ITALY SUPPORTED USSR AND SAID THAT UN SHOULD
NOT GIVE ICJ JURISDICTION OVER ALL DISPUTES, SINCE IT'S NOT
ALWAYS MOST APPROPRIATE FORUM. ITALIAN DEL SAID SC MUST REMAIN
MAIN BODY TO DEAL WITH DISPUTES THAT THREATEN INTERNATIONAL
PEACE AND SECURITY, BUT THAT SC CAN ALWAYS ASK ICJ FOR ADVISORY
OPINION EVEN THOUGH ICJ CAN ONLY CONSIDER PURELY JURIDICAL
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ASPECTS. COLOMBIA SAID PURPOSE OF PROPOSALS IS NOT TO GIVE
ICJ JURISDICTION IN ALL CASES, ONLY THOSE THAT REQUIRE JURIDICAL
ANALYSIS.

3. ON PARA 96, UK SPOKE IN FAVOR OF ENCOURAGING NATIONS TO IN-
CLUDE IN MULTILATERAL TREATIES STIPULATIONS THAT DISPUTES OF
INTERPRETATION BE SETTLED BY ICJ, AND DISCOURAGING NATIONS FROM

ADDING RESERVATIONS TO THOSE TREATIES WHICH DO GIVE JURISDICTION TO THE ICJ. PHILIPPINES PROPOSED ALLOWING UN OR ANY MEMBER STATE TO SUBMIT TO ICJ LEGAL ASPECTS OF DISPUTES CONCERNING APPLICATION OF CHARTER. ITALY SAID THIS WOULD SURFACE PROBLEM OF WHO OR WHAT REPRESENTS THE UN: THE SYG, OR THE SC, OR THE GA? FRANCE SAID THAT TRIPARTITE SITUATIONS DO NOT NECESSARILY LEND THEMSELVES TO ICJ SETTLEMENT, AND THAT DISPUTES BETWEEN INTERNATIONAL BODIES AND STATES ARE RARELY ONLY JURIDICAL IN NATURE. US SUPPORTED INCLUDING STIPULATIONS FOR THIRD PARTY DISPUTE SETTLEMENT IN MULTILATERAL TREATIES, BUT SAID SHARED GOAL OF INCREASING EFFECTIVENESS OF SUCH MACHINERY COULD AS EASILY BE ACHIEVED WITHIN PRESENT WORDING OF CHARTER AS BY AMENDMENTS.

4. ITALY SUGGESTED AMENDMENT TO CHARTER AND ICJ STATUTES SO THAT STATES COULD USE COURTS TO GET ADVISORY OPINIONS. PHILIPPINES SAID THAT SYG SHOULD ALSO BE ABLE TO REQUEST ADVISORY OPINIONS. SPAIN, SUPPORTED BY FRANCE, NOTED THAT BASIS OF INTERNATIONAL CONTENTIOUS CASE SETTLEMENT IS PRIOR CONSENT OF PARTIES CONCERNED, BUT THAT ADVISORY OPINIONS MIGHT, UNDER PROPOSED CHANGES, BE SOUGHT AND OBTAINED BY ONE PARTY WITHOUT PRIOR CONSENT OF THE OTHER. COLOMBIA SUPPORTED EXPANSION OF RANGE OF ADVISORY OPINIONS.

5. ENTERING ECOSOC PARAS, ROMANIA SAID PEACE, SECURITY, AND DETENTE ALL MUST BE BUILT ON NIEO. MEXICO SAID THAT UNEQUAL STRUCTURE OF WORLD TRADE MUST BE ALTERED ON BASIS OF NIEO AND CERDS. MEXICAN DELEGATE STATED THAT ALTHOUGH CERDS SAFEGUARDS SOVEREIGNTY OF STATES AND DEALS WITH SUCH ISSUES AS TRANSNATIONALS, LIMITED OFFICIAL USE

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PROTECTION OF NATURAL RESOURCES, AND RELATIONSHIP BETWEEN EXPORT AND IMPORT PRICES IN ANY GIVEN COUNTRY, MANY STATES HAVE RESERVATIONS ABOUT CERDS THUS LEAVING IN DOUBT ITS JURIDICAL STATUS. HE SAID THIS COULD BE RECTIFIED BY MEXICO'S PROPOSAL TO UPDATE THE ECONOMIC AND SOCIAL RULES GOVERNING THE CONDUCT OF STATES IN CHAPTER IX OF THE CHARTER. ECUADOR SPOKE IN FAVOR OF NIEO. YOUNG

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DISPUTE SETTLEMENT, COMMITTEE MEETINGS
Control Number: n/a
Copy: SINGLE
Sent Date: 02-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977USUNN00581
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770071-0554
Format: TEL
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770399/aaaadjmy.tel
Line Count: 104
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 80bad7be-c288-dd11-92da-001cc4696bcc
Office: ACTION IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 USUN NEW YORK 580
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 31-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3225200
Secure: OPEN
Status: NATIVE
Subject: UN CHARTER REVIEW
TAGS: PFOR, PINS, US, XX, UN, ECOSOC, ICJ
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/80bad7be-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009